



**DECISION OF  
MNSURE BOARD  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: Enrollment in a Qualified Health Plan  
Agency: MNSure  
Docket: 164358

On August 26, 2015 Appeals Examiner Victoria M. Lemberger held an evidentiary hearing under 42 U.S.C. §18081(f) and Minn. Stat. §62V.05, Subd. 6(a).

The following person appeared at the hearing:

[REDACTED] Appellant

Based on the evidence in the record and considering the arguments of the parties, I recommend the following findings of fact, conclusions of law, and order.

## STATEMENT OF ISSUE

Whether the MNsure Board correctly determined that the Appellant was eligible for enrollment in a Qualified Health Plan effective May 1, 2015.

## FINDINGS OF FACT

1. On April 27, 2015, the appellant called MNsure to report that the family would lose access to employer-sponsored insurance on April 30, 2015. *Exhibit 3*. MNsure (herein Agency) determined that the appellant was eligible for a special enrollment period. *Id.* On April 27, 2015, the appellant selected a qualified health plan. *Id.* The appellant spoke with a representative from MNsure and advised them that coverage would begin on May 1, 2015. *Id.*

2. MNsure sent the enrollment materials to the health insurance carrier so that coverage would begin May 1, 2015. *Exhibit 3*.

3. The appellant called MNsure several times to try to determine when the family's coverage would become effective. *Appellant testimony*. The appellant received conflicting information; sometimes the effective date was May 1, 2015 and other times the effective date was June 1, 2015. *Id.* The appellant did not get any of the insurance cards until the end of June. *Id.*

4. The appellant filed an appeal on June 10, 2015. A hearing was scheduled for July 7, 2015 and continued at the request of the appellant. On August 26, 2015, Appeals Examiner Lemberger held an evidentiary hearing by telephone conference. The judge accepted into evidence four exhibits and closed the record at the conclusion of the hearing.<sup>1</sup>

4. The appellant has been billed for coverage for May 2015. *Appellant testimony*. She contends that she should not have to pay for coverage that they did not know they had. *Id.* She did not go to the doctor in May because she did not believe that she had coverage.

5. The agency maintains that May1, 2015 is correct for the beginning of coverage because she selected a plan on April 27, 2015. *Exhibit 3*.

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<sup>1</sup>Exhibit 1 – Appeal; Exhibit 2 – DHS Appeal Summary; Exhibit 3 – Agency Memorandum; Exhibit 4 – Notice of Agency Action.

## CONCLUSIONS OF LAW

1. For MNSure appeals, an appeal must be received within 90 days from the date of the notice of eligibility determination. *45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D)*. This appeal is timely.

2. The MNSure Board has an agreement with the Department of Human Services to hear and decide appeals involving premium assistance. *Minn. Stat. § 62V.05, subd. 6*. Therefore, the Commissioner has jurisdiction over this appeal.

3. In this case there is no dispute or issue raised by either party relating to Medical Assistance or MinnesotaCare eligibility.

4. When a person is eligible for a special enrollment period due to loss of minimal essential coverage, and the plan selection is made before the effective date of the loss of coverage, the exchange is obligated to ensure that coverage is effective on the first date of the month following the loss of coverage. *45 C.F.R. §155.420(b)(2)(iv)*. In cases where enrollment was due to error on the part of the exchange, or where the carrier substantially violated a material provision of its contract, or where other exceptional circumstances exist, the exchange may determine an effective date that is appropriate based on the circumstances of the special enrollment period. *45 C.F.R. §155.420(b)(2)(iii)*.

5. It is undisputed that Appellant enrolled in a QHP on April 30, 2015. MNSure determined Appellant to be eligible for a special enrollment period based on loss of minimal essential coverage that was effective April 30, 2015. Thus, Appellant made the plan selection before the effective date of the loss of coverage, and MNSure was obligated by regulation to determine an effective date of May 1, 2015 for the QHP coverage, to ensure no gap in coverage. There was no error on the part of MNSure in enrolling Appellant in a QHP effective May 1, 2015. Of course, it was error for the agency to tell Appellant that coverage was effective June 1, but this is not an exceptional circumstance that can authorize the agency to change the actual effective date of coverage. MNSure's determination that Appellant's QHP coverage became effective on May 1, 2015 should be affirmed.

8. This decision is effective October 1, 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the MNsure Board AFFIRM the agency's enrollment of the appellant in a qualified health plan effective April 1, 2015.

/s/ Victoria M. Lemberger  
Victoria M. Lemberger  
Appeals Examiner

October 5, 2015  
Date

ORDER OF THE MNSURE BOARD

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board adopts the Appeals Examiner's recommendation as the final decision.

FOR THE MNsure Board:

/s/ Louis Thayer  
Louis Thayer  
Co-Chief Human Services Judge

October 16, 2015  
Date

cc: [REDACTED] Appellant  
MNsure General Counsel  
Teressa Saybe, DHS, 0838

## **FURTHER APPEAL RIGHTS**

**This decision is final, unless you take further action.**

Appellants who disagree with this decision should consider seeking legal counsel to identify further legal recourse.

If you disagree with the effect this decision has on your eligibility for **Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program**, you may:

- **Appeal to the United States Department of Health and Human Services (DHHS)** under 42 U.S.C. § 18081(f) and 45 C.F.R. § 155.520(c). This decision is the final decision of MNsure, unless an appeal is made to DHHS. An appeal request may be made to DHHS *within 30 days of the date of this decision* by calling the Marketplace Call Center at 1-800-318-2596 (TTY 855-889-4325); or by downloading the appeals form for Minnesota from the appeals landing page on [www.healthcare.gov](http://www.healthcare.gov).
- **Seek judicial review** to the extent it is available by law.